IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 757 of 2000

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SONBEN, W/O BECHARBHAI LAKHMANBHAI MARU

Versus

AMARBHAI MAGANBHAI KHAVDA

Appearance:

MS SEJAL K MANDAVIA for the Petitioner.

MR ANSHIN H DESAI for Respondent No. 1

..... for Respondent No. 2-9

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 24/03/2004

ORAL JUDGEMENT

The petitioner herein is the original plaintiff of Regular Civil Suit No.832 of 1998, which is pending in the Court of Civil Judge (Junior Division), Junagadh.

The said suit was filed for a declaration and injunction to the effect that she is in possession of the suit property and the defendants have no right to disturb her possession.

In the said suit, the plaintiff submitted an Application, Exhibit 5. The trial court granted the said application and granted injunction in favour of the plaintiff, restraining the defendants from disturbing the possession of the plaintiff as regards the suit property. Against the order of the trial court, the original defendants preferred an appeal, being Civil Miscellaneous Appeal No.23 of 1999, before the District Court at Junagadh. The said appeal was heard by the Second Extra Assistant Judge, Junagadh, who, by the judgment and order dated 4th July, 2000, allowed the said appeal and set aside the order passed by the trial court below Exhibit 5 in Regular Civil Suit No.832 of 1998.

Being aggrieved by the aforesaid order of the appellate court, the petitioner-original plaintiff of the suit has filed this revision under Section 115 of the Code of Civil Procedure.

Considering the fact that the revision is filed against an interlocutory order of injunction in the pending suit, this revision is not maintainable in view of the amendment in Section 115 of the Code of Civil Procedure. This revision, therefore, is not maintainable. This CRA is accordingly disposed of as not maintainable. Rule is discharged. No order as to costs.

It will be open for the petitioner to challenge the impugned order of the appellate court by filing a petition under Article 227 of the Constitution of India, as, this Court has not expressed any merits of the issue. Interim relief granted by this Court earlier is ordered to be extended upto 15th April, 2004.

24th March, 2004 (P.B. Majmudar, J.)

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(apj)